

Attorney General Proposes Changes to State's Drug Laws and Elimination of Loophole for Illegal Gun Possession

Drug law proposals would simplify drug laws, eliminate geographic inequities, and increase focus on treatment; Firearm proposal would ensure that all violent felons illegally carrying guns face jail time.



Attorney General Matt Denn speaks at the Osher Lifelong Learning Institute at the University of Delaware

Attorney General Matt Denn announced today that he would be asking the newly elected General Assembly to reform the state's drug laws, and eliminate a dangerous loophole in the state's illegal gun possession statute.

Attorney General Denn stated that the state's drug laws – as currently written – are overly complicated, contain provisions that expose residents of urban areas to greater penalties than those who live in rural and suburban areas, and do not focus sufficient resources on treatment of inmates and defendants with substance abuse problems.

Attorney General Denn outlined his proposals in remarks made today at the University of Delaware's Osher Institute of Lifelong Learning. With respect to his proposals regarding reform of the state's drug statute, he suggested that his office work with legislators, law enforcement officials, representatives of the criminal justice system, substance abuse experts, and victim advocates to create a specific reform proposal for the General Assembly to consider early in its upcoming session.

In his remarks, Attorney General Denn noted that Delaware's existing drug laws:

- Are unnecessarily complicated and cumbersome for law enforcement officers, attorneys, and judges to apply;
- Contain sentencing enhancements that are based entirely upon where crimes are committed, which effectively expose people living in urban areas of the state to more severe criminal penalties than those living in suburban and rural areas;
- Contain other sentencing enhancements that do not appear logical, such as imposing harsher sentences for drug crimes that involve the use of a car;
- Do not focus sufficient resources on drug treatment for inmates and defendants who participate in 'diversion' programs to avoid incarceration

Attorney General Denn emphasized that changes to the drug statute should ensure that the intent of sentencing enhancements designed to protect children is preserved, and specifically suggested that in place of the statute's current focus on the geographic location of offenses for purposes of sentencing, the sale of drugs by an adult to a child should result in a mandatory sentence.

"It is time for us to revise our criminal drug laws," the Attorney General said, "to make them more simple, more fair,

and more logical, and to ensure more substance abuse treatment for inmates and people who go through diversion courts.”

Attorney General Denn also renewed his call for the legislature to eliminate a loophole in the state’s illegal gun possession statute. Currently, individuals who are barred by virtue of a violent felony conviction from possessing a firearm, but defy that ban and are in possession of a gun, face a minimum mandatory jail sentence ranging from three to ten years. However, young adults who are barred from possessing guns due to a juvenile violent felony adjudication, and who defy that ban, face no mandatory jail sentence at all.

Attorney General Denn illustrated his point with a description of the case of an offender he referred to as “Ron” who was adjudicated of multiple violent felonies as a juvenile and therefore prohibited from having a gun before he was 25, but then found with one at age 21.

“If he had gotten any of those prior violent felony adjudications as an adult rather than as a juvenile and then pled guilty to this new gun charge, his sentence would have been an automatic five years in jail,” Attorney General Denn said. “But under the criminal code as it is currently written, violent felonies committed as juveniles are written out of this mandatory sentencing provision, so Ron got no new jail time at all. The judge let him out to work release after time served – the time he had spent in prison awaiting trial.”

Attorney General Denn reiterated his position that young adults with violent felony records as juveniles must be deterred from illegally carrying guns, and indicated that he would once again ask the legislature to require a minimum jail sentence for young adults who defy this gun prohibition.